



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/822,397	03/20/1997	BARRY H. SCHWAB	VID-00203/29	6309
25006 7590 05/28/2008 GIFTORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C PO BOX 7021 TROY, MI 48007-7021				
EXAMINER BROWN, RUEBEN M				
ART UNIT 2623		PAPER NUMBER		
MAIL DATE 05/28/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

08/822,397

Applicant(s)

SCHWAB ET AL.

Examiner

REUBEN M. BROWN

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 1-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 18-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel, (U.S. Pat # 4,930,160), in view of Abecassis, (U.S. Pat # 5,664,046).

Considering claim 18, the amended claimed method of automatically changing from a first TV program to an alternate transmission at a TV viewer location, comprising the steps of:

'entering, at the viewer location, information regarding a viewing preference', reads on disclosure in Vogel that a viewer may input channel selection and preferred Classification

information for the purpose of local censorship of received video programming, see col. 4, lines 17-67.

'transmitting a TV program from a source to a viewer location', reads on Vogel which is at least directed to broadcast transmission/reception of video programming, see col. 2, lines 64-68; col. 3, lines 5-67.

'receiving the TV program at a viewer location over a first TV channel, the TV program including a pointer to an alternate TV channel providing an alternate TV program', and 'automatically switching the TV program to the alternate TV program using the pointer & information previously entered by the viewer without requiring any additional viewer intervention at the time of switching' is met by the discussion in Vogel that teaches that a classification code embedded within a TV program is extracted by the receiver/decoder and is used to control the instant receiver/decoder to switch to receive alternate programming based on whether the embedded classification code exceeds the user preference, see col. 3, lines 56-67; col. 6, lines 15-45.

As for the further claimed feature of, *'providing an alternate TV program with subject matter directly related to the TV program'*, even though Vogel is directed to providing a viewer with alternate programming for the purpose of censorship, the reference does not explicitly state that the alternate material is directly related to the received TV program. Nevertheless Abecassis, which is in the same field of endeavor of providing customized versions of a TV program based

on the customer's preference, teaches substituting portions of the TV program that are outside of the classification preferences of the customer, with a version of the TV program that is within the classification of the customer, col. 4, lines 1-34; col. 7, lines 29-56; col. 8, lines 3-60; col. 9, lines 31-46 & col. 10, lines 59-65. Thus, in Abecassis the alternate material is directly related to the main program, Abstract; col. 23, lines 1-17. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Vogel with the improvement of providing a customer with alternate material from the same program, as taught by Abecassis, see col. 2, lines 47-60.

Considering claims 19, 30 & 37, Vogel teaches that the system may operate in a CATV network, col. 1, lines 5-12.

Considering claims 20, 31 & 38, Vogel does not teach that the video program may be transmitted in digital form. However, Abecassis teaches video programming in digital form, see col. 4, lines 42-52; col. 11, lines 65-67 thru col. 12, lines 1-12. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Vogel to provide video programming in digital format at least for the known advantages of easier manipulation and editing.

Considering claims 21 & 28, Vogel teaches the use of a remote control, col. 6, lines 4-21. Also, Abecassis discloses the well-known use of a remote-control to enter customer preference information, col. 10, lines 52-57.

Considering claims 22 & 29, the on-screen programming technique reads on the disclosure of Abecassis, see col. 10, lines 35-57; col. 22, lines 1-61.

Considering claim 23, see Abecassis, col. 20, lines 21-67 thru col. 21, lines 1-11.

Considering claims 24-25, 32-33 & 39-40, Vogel teaches that the classification information may at least be transmitted at the beginning of a TV program, col. 4, lines 1-5; col. 6, lines 2-15. Official Notice is taken that at the time the invention was made, it was well known in the art to continuously transmit embedded information, within an ongoing TV program. It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Vogel with the feature of continuous transmission of the embedded classification code information, at least for the desirable advantage of providing the customer with updated information.

Considering claim 26, the amended claimed method of directing an automatic channel changing function at a viewer location to achieve a cohesive viewing environment, comprising the steps of:

'providing a channel selector at a viewer location', is inherent Vogel, which is directed to a TV system that allows a customer to choose their desired programming which is tuned to by the receiver.

'transmitting, from a broadcaster to the viewing location, a TV program on a primary transmission medium, the program including additional information for directing the channel selector to automatically switch, at least temporarily, to one or more secondary transmission media', is met by the disclosure in Vogel of the classification codes embedded in TV programming, which is used by the receiver/decoder to switch to an appropriate source of programming that is consistent with the customer's viewing preferences, col. 6, lines 15-45.

The additionally claimed feature of *'carrying alternative programming directly related to the TV program on the primary transmission'*, corresponds with subject matter mentioned above in the rejection of claim 18, and is likewise analyzed.

Considering claim 27, the additional information in Vogel & Abecassis derived from customer preference information entered at the viewer location.

Considering claim 34, the claimed TV viewing system, comprising;

'a source of an audio/video TV program including a channel-change command' reads on the disclosure in Vogel that video programming is transmitted to a customer(s) with a code that causes the receiver/decoder to switch to an alternate channel/broadcaster in order to receive appropriate alternate programming, see Abstract; col. 4, lines 41-63 & col. 6, lines 15-45.

'receive the TV program'; 'detect the channel-change command'; 'automatically select on a different transmission medium alternate program material in response to the channel change command', reads on Vogel, col. 3, lines 50-68; col. 4, lines 43-65; col. 6, lines 15-45.

As for the further claimed feature of, *'providing an alternate TV program with subject matter directly related to the TV program'*, even though Vogel is directed to providing a viewer with alternate programming for the purpose of censorship, the reference does not explicitly state that the alternate material is directly related to the received TV program. Nevertheless Abecassis, which is in the same field of endeavor of providing customized versions of a TV program based on the customer's preference, teaches substituting portions of the TV program that are outside of the classification preferences of the customer, with a version of the TV program that is within the classification of the customer, col. 4, lines 1-34; col. 7, lines 29-56; col. 8, lines 3-60; col. 9, lines 31-46 & col. 10, lines 59-65. Thus, in Abecassis the alternate material is directly related to the main program, Abstract; col. 23, lines 1-17. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Vogel with the improvement of providing a customer with alternate material from the same program, as taught by Abecassis, see col. 2, lines 47-60.

Considering claim 35, '*descriptive information*' reads on the classification information input by the customer in Vogel & Abecassis.

Considering claim 36, the claimed features correspond with subject matter mentioned above in the rejection of claims 21-22, and is likewise treated.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 2623

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Chris Kelley/
Supervisory Patent Examiner, Art Unit 2623